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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/031,680	07/30/2002	Michael Walden	MLAB-0111	6265

23377 7590 06/28/2007
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EXAMINER

KAZIMI, HANI M

ART UNIT	PAPER NUMBER
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3691

MAIL DATE	DELIVERY MODE
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06/28/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/031,680

Applicant(s)

WALDEN, MICHAEL

Examiner

Hani Kazimi

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 22 January 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,8-14 and 20 is/are rejected.
- 7) ☒ Claim(s) 2-7 and 15-19 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☒ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 10/28/02
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. This application has been reviewed. Original claims 1-20 are pending. The rejections cited are as stated below:

Oath/Declaration

2. The oath or declaration is missing. A new oath or declaration in compliance with 37 CFR 1.67(a) identifying this application by application number and filing date is required. See MPEP §§ 602.01 and 602.02.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 12 and 13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 12 and 13 recite the limitation "said registered subscriber". There is insufficient antecedent basis for this limitation in the claims.

Claim Rejections - 35 USC § 102

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The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1, 8-14 and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Allred et al., US Pat. No. 5,765,142.

As to claims 1, Allred discloses a computer implemented method for promoting a work of authorship of an artist (col. 2, lines 58-65), said method comprising the steps of: providing a work of authorship created by an artist, in electronic form, for access (col. 8, lines 6-11); releasing said work of authorship in response to a request for access from a requestor (col. 9, lines 44-50 and col. 10, lines 1-12); recording both the release of a work of authorship and the requestor to whom said work of authorship is released (col. 9, lines 50-60); analyzing the number of times the work of authorship has been released (col. 9, lines 50-58); and limiting the number of times a work of authorship is released (i.e. specifies the product is to be available in the American and Canadian markets but to remain invisible in other markets)(col. 9, lines 1-9).

As to claim 8, Allred discloses the method of step 1, wherein said step of releasing said work of authorship comprises the step of charging said requestor for releasing said work

of authorship (col. 9, lines 50-58).

As to claim 9, Allred discloses the method of claim 9, wherein the method is implemented on a server (i.e. Prodigy or CompuServe) and wherein said step of releasing said work of authorship comprises the step of designating a portion of said server for use by said requestor, storing said work of authorship in said designated portion and charging said requestor (col. 4, lines 1-7 and col. 9, lines 50-58).

As to claim 10, Allred discloses the method of claim 8, further comprising said charge in response to said analyzing step (col. 9, lines 50-58).

As to claim 11, Allred discloses the method of claim 1, further comprising the step of receiving a new work of authorship and providing said new work of authorship in electronic form (col. 7, lines 1-12 and lines 25-40).

As to claim 12, Allred discloses the method of claim 1, further comprising the step of providing a preview of said work of authorship (col. 9, lines 44-50 and col. 10, lines 1-12).

As to claim 13, Allred discloses the method of claim 1, further comprising the step of providing a physical copy of said work of authorship (col. 10, lines 1-12).

As to claim 14, Allred discloses the method of claim 13, further comprising the step of limiting the number of physical copies being provided (i.e. specifies the product is to be available in the American and Canadian markets but to remain invisible in other markets)(col. 9, lines 1-9).

As to claim 20, Allred discloses the method of claim 1, wherein said step of releasing said work of authorship comprises the step of associating a serial designation to the release of said work of authorship, wherein each release of said work of authorship has a separate serial designation (see Fig. 3-5).

Allowable Subject Matter

5. Claims 2-7 and 15-19 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hani Kazimi whose telephone number is (571) 272-6745. The examiner can normally be reached Monday-Friday from 8:30 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

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supervisor, Alexander Kalinowski can be reached on (571) 272-6771. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-2 17-9197 (toll-free).



HANI M. KAZIMI
PRIMARY EXAMINER

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June 11, 2007